



TEXAS DEPARTMENT OF INSURANCE

Division of Workers' Compensation - Medical Fee Dispute Resolution (MS-48)
7551 Metro Center Drive, Suite 100, Austin, Texas 78744-1645
(512) 804-4000 | F: (512) 804-4811 | (800) 252-7031 | TDI.texas.gov | @TexasTDI

MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

GENERAL INFORMATION

Requestor Name

Sentrix Pharmacy

Respondent Name

New Hampshire Insurance Company

MFDR Tracking Number

M4-16-2817-01

Carrier's Austin Representative

Box Number 19

MFDR Date Received

May 13, 2016

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "Sentrix received an agreement from Rising Medical Solutions on 2/8/16 for a negotiated one-time payment of \$8000.00 for the billed charges for the 10/23/15 date of service. Sentrix agreed to the negotiated amount and signed and faxed the Letter of Agreement on 2/8/16 ... on 2/18/16, Sentrix received an EOB for the 10/23/15 date of service ... denying the charges as 'exact duplicate claim/service.'"

Amount in Dispute: \$12,607.46

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: "Upon initial receipt of the bill we were going to pay the charges, and had the bill in negotiation. During this process our client FirstGroup/Gallagher Bassett determined that the charges were not related or medically necessary as a result of the work injury. The bill was denied accordingly..."

Response Submitted by: Rising Medical Solutions, Inc.

SUMMARY OF FINDINGS

Table with 4 columns: Dates of Service, Disputed Services, Amount In Dispute, Amount Due. Row 1: October 23, 2015, Compound Cream, \$12,607.46, \$12,607.46

FINDINGS AND DECISION

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and applicable rules of the Texas Department of Insurance, Division of Workers' Compensation.

Background

- 1. 28 Texas Administrative Code §133.307 sets out the procedures for resolving medical fee disputes.
2. 28 Texas Administrative Code §133.240 sets out the procedures for denial or payment of a medical bill.
3. 28 Texas Administrative Code §134.503 sets out the fee guidelines for pharmaceutical services.
4. 28 Texas Administrative Code §19.2005 provides general standards of utilization review.

5. Texas Labor Code §408.027 defines the requirements for payment of a health care provider.
6. Texas Labor Code §408.0281 sets out the procedures for reimbursement of pharmaceutical services.
7. In its position statement, the insurance carrier raised issues of relatedness and medical necessity.
8. The insurance carrier reduced payment for the disputed services with the following claim adjustment codes:
  - 18 – Exact duplicate claim/service.

### **Issues**

1. Did the insurance carrier appropriately raise the issue of relatedness for this dispute?
2. Did the insurance carrier appropriately raise the issue of medical necessity for this dispute?
3. Is the insurance carrier’s reason for denial of payment supported?
4. Was a contracted rate provided for the disputed services in accordance with 28 Texas Administrative Code §134.503?
5. What is the total allowable reimbursement for the disputed services?
6. Is the requestor entitled to additional reimbursement?

### **Findings**

1. In its position statement, the insurance carrier argued that the disputed compound cream was not related to the work injury. 28 Texas Administrative Code §133.307(d)(2)(F) states, in relevant part:

The response shall address only those denial reasons presented to the requestor prior to the date the request for MFDR was filed with the division and the other party. Any new denial reasons or defenses raised shall not be considered in the review...

28 Texas Administrative Code §133.240(e), (e)(1), (e)(2)(C), and (e)(3) address actions that the insurance carrier is required to take during the medical billing process, when the insurance carrier determines that the medical service was not related to the compensable injury. Review of the submitted documentation does not support that a denial for relatedness was presented to the requestor in accordance with 28 Texas Administrative Code §133.240 prior to the date the request for MFDR was filed. Because the carrier’s assertion that the compound cream was not related to the work injury was not properly raised prior to medical fee dispute resolution, it is a new denial/defense and shall not be considered in this review.

2. The respondent asserted in its position statement that the disputed compound cream was not “medically necessary.” 28 Texas Administrative Code §133.307(d)(2)(F) states, in relevant part:

The response shall address only those denial reasons presented to the requestor prior to the date the request for MFDR was filed with the division and the other party. Any new denial reasons or defenses raised shall not be considered in the review...

28 Texas Administrative Code §133.240(e), (e)(1), (e)(2)(A), and (e)(3) address actions that the insurance carrier is required to take during the medical billing process, when the insurance carrier determines that the medical service was not medically necessary. Review of the submitted documentation does not support that a denial for medical necessity was presented to the requestor in accordance with 28 Texas Administrative Code §133.240 prior to the date the request for MFDR was filed. Because the carrier’s assertion that the compound cream was not medically necessary was not properly raised prior to medical fee dispute resolution, it is a new defense and shall not be considered in this review.

The division notes that the respondent referenced a peer review to support its assertion that the disputed compound cream was not medically necessary. Not only did the submitted documentation not include a copy of the peer review referenced by the carrier as required by 28 Texas Administrative Code §133.307(d)(2)(I), the ingredients that the carrier alleges were reviewed as part of that alleged peer review do not correspond with the ingredients for the disputed compound cream.

3. The insurance carrier denied disputed services with claim adjustment reason code 18 – “EXACT DUPLICATE CLAIM/SERVICE.” 28 Texas Administrative Code §133.307(d)(2)(B) requires the insurance carrier to provide “a paper copy of all initial and appeal EOBs related to the dispute, as originally submitted to the health care provider in accordance with this chapter, related to the health care in dispute not submitted by the

requestor..." Review of the submitted information does not support that the services in question were previously reviewed by the insurance carrier.

Further, the submitted explanation of benefits dated February 11, 2016 does not meet the requirements found in 28 Texas Administrative Code §133.240(f)(17), which requires that an explanation of benefits include:

- health care service information for each billed health care service
- (A) date of service;
- (B) the CPT, HCPCS, NDC, or other applicable product or service code;
- (C) CPT, HCPCS, NDC, or other applicable product or service code description;
- (D) amount charged;
- (E) unit(s) of service...

The insurance carrier's denial reason is not supported. The disputed services will therefore be reviewed per applicable Division rules and fee guidelines.

4. The requestor stated that they

received an agreement from Rising Medical Solutions on 2/8/16 for a negotiated one-time payment of \$8000.00 for the billed charges for the 10/23/15 date of service. Sentrix agreed to the negotiated amount and signed and faxed the Letter of Agreement on 2/8/16... Sentrix received an email and voided settlement from Rising Medical Solutions on 5/10/16.

28 Texas Administrative Code §134.503(f) states:

Notwithstanding the provisions of this section, prescription medication or services, as defined by Labor Code §401.011(19)(E), may be reimbursed at a contract rate that is inconsistent with the fee guideline as long as the contract complies with the provisions of Labor Code §408.0281 and applicable division rules.

Texas Labor Code §408.027(f) requires that:

Except as provided by Section 408.0281 or 408.0284, any payment made by an insurance carrier under this section shall be in accordance with the fee guidelines authorized under this subtitle if the health care service is not provided through a workers' compensation health care network under Chapter 1305, Insurance Code...

Texas Labor Code §408.0281 provides for reimbursement of pharmaceutical services through an informal or voluntary network. Review of the submitted documentation finds that the agreement referenced by the requestor does not comply with the provisions of Texas Labor Code §408.0281. Therefore, a contracted rate for the disputed services was not provided in accordance with 28 Texas Administrative Code §134.503.

5. The total reimbursement for the disputed services is established by the AWP formula pursuant to 28 Texas Administrative Code §134.503(c), which states:

The insurance carrier shall reimburse the health care provider or pharmacy processing agent for prescription drugs the lesser of:

- (1) the fee established by the following formulas based on the average wholesale price (AWP) as reported by a nationally recognized pharmaceutical price guide or other publication of pharmaceutical pricing data in effect on the day the prescription drug is dispensed:
  - (A) Generic drugs:  $((\text{AWP per unit}) \times (\text{number of units}) \times 1.25) + \$4.00$  dispensing fee per prescription = reimbursement amount;
  - (B) Brand name drugs:  $((\text{AWP per unit}) \times (\text{number of units}) \times 1.09) + \$4.00$  dispensing fee per prescription = reimbursement amount;
  - (C) When compounding, a single compounding fee of \$15 per prescription shall be added to the calculated total for either paragraph (1)(A) or (B) of this subsection; or
- (2) notwithstanding §133.20(e)(1) of this title (relating to Medical Bill Submission by Health Care Provider), the amount billed to the insurance carrier by the:
  - (A) health care provider...

The requestor is seeking reimbursement for a compound that includes the brand name ingredient, Pracasil Plus – Cream Base, NDC 51927465500, 170.4 gm; and the generic drugs Propylene Glycol, NDC 38779051001, 12.0 ml; Gabapentin Powder, NDC 38779246108, 36.0 gm; Fluticasone Propionate Powder, NDC 38779276004, 2.4 gm; and Naproxen Sodium Powder, NDC 62991290401, 12.0 gm. The disputed medication was dispensed on October 23, 2015. The reimbursement is calculated as follows:

Date of Service	Ingredient	Calculation per \$134.503 (c)(1)	\$134.503 (c)(2)	Lesser of \$134.503 (c)(1) & (2)	Carrier Paid	Balance Due
10/23/15	Pracasil Plus – Cream Base	$(12.720 \times 170.4 \times 1.09) + 4.00 = \$2366.56$	\$2167.22	\$2167.22	\$0.00	\$2167.22
10/23/15	Propylene Glycol	$(0.190 \times 12.0 \times 1.25) + 4.00 = \$6.85$	\$2.53	\$2.53	\$0.00	\$2.53
10/23/15	Gabapentin Powder	$(59.850 \times 36.0 \times 1.25) + 4.00 = \$2697.25$	\$2154.61	\$2154.61	\$0.00	\$2154.61
10/23/15	Fluticasone Propionate Powder	$(3449.35520 \times 2.4 \times 1.25) + 4.00 = \$10,352.07$	\$8278.06	\$8278.06	\$0.00	\$8278.06
10/23/15	Naproxen Sodium Powder	$(3.990 \times 12.0 \times 1.25) + 4.00 = \$63.85$	\$5.04	\$5.04	\$0.00	\$5.04

6. The total allowed amount for the disputed service is \$12,607.46. The insurance carrier paid \$0.00. A reimbursement of \$12,607.46 is recommended.

**Conclusion**

For the reasons stated above, the Division finds that the requestor has established that additional reimbursement is due. As a result, the amount ordered is \$12,607.46.

***ORDER***

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code Sections 413.031 and 413.019 (if applicable), the Division has determined that the requestor is entitled to additional reimbursement for the services in dispute. The Division hereby ORDERS the respondent to remit to the requestor the amount of \$12,607.46 plus applicable accrued interest per 28 Texas Administrative Code §134.130, due within 30 days of receipt of this Order.

**Authorized Signature**

Signature	Laurie Garnes Medical Fee Dispute Resolution Officer	July 18, 2016 Date
-----------	---	-----------------------

### ***YOUR RIGHT TO APPEAL***

Either party to this medical fee dispute has a right to seek review of this decision in accordance with 28 Texas Administrative Code §133.307, 37 *Texas Register* 3833, applicable to disputes filed on or after June 1, 2012.

A party seeking review must submit a **Request to Schedule a Benefit Review Conference to Appeal a Medical Fee Dispute Decision** (form **DWC045M**) in accordance with the instructions on the form. The request must be received by the Division within **twenty** days of your receipt of this decision. The request may be faxed, mailed or personally delivered to the Division using the contact information listed on the form or to the field office handling the claim.

The party seeking review of the MFDR decision shall deliver a copy of the request to all other parties involved in the dispute at the same time the request is filed with the Division. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision*** together with any other required information specified in 28 Texas Administrative Code §141.1(d).

**Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.**